



05-CV-01848-CMP

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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CV 051848 JCC

ONYX PHARMACY, INC., a
Washington Corporation,

NO.

Plaintiff,

NOTICE OF REMOVAL TO
FEDERAL COURT

v.

MEDICAL ASSISTANCE
ADMINISTRATION DEPARTMENT
OF SOCIAL AND HEALTH
SERVICES, STATE OF
WASHINGTON,

Defendant.

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that defendant STATE OF WASHINGTON,
DEPARTMENT OF SOCIAL AND HEALTH SERVICES, hereby removes to this court the
state court action described below.

1. At the times relevant to the complaint, plaintiff Onyx Pharmacy, Inc. alleges it
is a Washington State corporation with its principal place of business located in Bellevue,
King County, Washington. This case alleges the violation of civil rights under 42 U.S.C. §§

W/TS su.

1 1981 and 1983, as well as state law claims including, tortious interference with business
2 expectancy; and racial discrimination under RCW 49.60 et seq.

3 2. On October 18, 2005, counsel for the State of Washington Department of
4 Social and Health Services was served a lawsuit filed in the Superior Court of Washington for
5 King County, Case No. 05-2-34246-3 SEA entitled "Onyx Pharmacy, Inc., a Washington
6 Corporation vs. Medical Assistance Administration Department of Social and Health
7 Services, State of Washington."

8 3. The complaint asserts an action under 42 U.S.C. §§ 1981 and 1983 against the
9 individually named defendant. This notice of removal is being filed within 30 days of service
10 of the complaint alleging an action under 42 U.S.C. §§ 1981 and 1983 against the named
11 individual defendant.

12 4. Under 28 U.S.C. § 1331 and § 1343, the United States District Courts "have
13 original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the
14 United States."

15 5. Plaintiff alleges in Count III, paragraph 3.3 of the complaint that the defendant
16 violated the plaintiff's rights pursuant to 42 U.S.C. §§ 1981 and 1983 (which allegations are
17 not admitted by defendant State of Washington, Department of Social & Health Services).

18 6. This is a civil action of which this court has original jurisdiction under 28
19 U.S.C. § 1331 and § 1343, and is one which may be removed to this court by defendant
20 pursuant to 28 U.S.C. § 1441(b) in that it is a civil action founded on a claim or right arising
21 under federal law. The district court also has supplemental jurisdiction over the state claims
22 pursuant to 28 U.S.C. § 1367. An Eleventh Amendment bar as to supplemental claims does
23 not divest the federal court of jurisdiction over claims arising under federal law. *Wisconsin*
24 *Dept. of Corrections v. Schacht*, 524 U.S. 381, 118 S. Ct. 2047, 141 L. Ed. 2d 364 (1998).

25 7. Venue in the Western District is appropriate as this is the judicial district in
26 which the plaintiff's principal place of business is located in King County, Washington.

ROB McKENNA
Attorney General

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